

September 30, 2004

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-A306
Washington, D.C. 20554

Irene Flannery
Universal Service Administrative Company
2000 L Street N.W., Suite 200
Washington, D.C. 20036

RE: New Residential Rate Comparability Certification for Wyoming's Non-Rural Incumbent Carrier Serving in Rural Areas within Wyoming Pursuant to 47 C.F.R. § 54.316
(CC Docket No. 96-45)

Dear Ms. Dortch and Ms. Flannery:

The Wyoming Public Service Commission (WPSC) hereby submits, pursuant to 47 C.F.R. § 54.316, its initial residential rate comparability certification to the Federal Communications Commission (FCC) and to the Universal Service Administrative Company (USAC). 47 C.F.R. § 54.316, **Rate comparability review and certification for areas served by non-rural carriers**, requires state commissions to annually review the comparability of residential rates in rural areas of the state served by non-rural incumbent local exchange carriers to urban rates nationwide. Qwest Corporation (Study Area Code 515108) is the only non-rural incumbent local exchange carrier in Wyoming and Qwest does serve in the rural areas of the state. 47 C.F.R. § 54.316 further requires the WPSC to certify to the FCC and the USAC whether the rates are reasonably comparable pursuant to the universal service principles contained in section 254(b)(3) of the federal Telecommunications Act of 1996.

This residential rate review and certification is pursuant to the FCC's expanded certification process contained in the FCC's *Order on Remand, Further Notice of Proposed Rulemaking, and Memorandum Opinion and Order*, CC Docket No. 96-45, FCC 03-249 released October 27, 2003 (commonly referred to as the *Remand Order*). This initial rate review and certification is due October 1, 2004, pertaining to residential rates in effect as of July 1, 2004, with rates compared to the current nationwide urban rate benchmark. The nationwide urban rate benchmark equals the most recent average urban rate plus two weighted average standard deviations. The average

urban rate and standard deviation are found in the most recent *Reference Book of Rates, Price Indices, and Expenditures for Telephone Service* published by the Wireline Competition Bureau of the FCC. For this initial certification, the nationwide urban rate benchmark is \$34.16 per month.

Exhibit 1 to this filing is a presentation of the Basic Service Rate Template for Wyoming as more fully described in the Joint Board's Recommended Decision, in paragraph 86 of the FCC's *Remand Order* and contained in Appendix F to the *Remand Order*. This Exhibit presents, in detail, the residential rate data for the most rural areas (Rural Zone 3) within Wyoming as required by the *Remand Order* and 47 C.F.R. § 54.316. This Exhibit shows that these rural residential customers, served by the non-rural incumbent local exchange carrier, pay a monthly rate of \$42.28, or 124 percent (124%) of the nationwide urban rate benchmark. Because of the manner in which federal support is targeted, residential customers located in Rural Zone 1 and Rural Zone 2 also pay the monthly rate of \$42.28. One hundred percent (100%) of the federal high cost support received by Qwest in Wyoming is reflected as a bill credit to its rural customers. Based on these facts, the methods in which the average urban rate was calculated and the rate comparison requirements contained in the *Remand Order*, the Wyoming Commission must conclude that its rural residential rates are not reasonably comparable to the nationwide urban rate benchmark.

There are several reasons why the rates are not reasonably comparable, with the main factor being the fact that Wyoming has cost-based rates for its rural areas and no other state does (a fact recognized several times by the FCC in the *Remand Order*). The WPSC has fully implemented the statutory mandates of the pro-competitive Wyoming Telecommunications Act of 1995 (Wyoming Act) (W.S. §§ 37-15-101 through 37-15-502). Relevant sections of the Wyoming Act are W.S. § 37-15-402 which requires cost-based pricing for all retail telecommunications services in Wyoming, W.S. § 37-15-403 which prohibits cross subsidies and eliminates implicit subsidies and W.S. § 37-15-501, which established the Wyoming Universal Service Fund. Qwest now has in place de-averaged cost-based residential rates with all implicit subsidies removed from the residential rates and the WPSC has implemented the explicit subsidy support program – the Wyoming Universal Service Fund. The residential rate shown on Exhibit 1 to this certification reflects the truly high cost, rural nature of much of Wyoming.

Since the WPSC has told the “Wyoming Story” many times in comments and reply comments during numerous federal Universal Service Fund proceedings, the FCC is very familiar with our situation. The WPSC was an active participant in the Rural Task Force on these important universal service issues. A recent example of this is the *Remand Order* where the FCC mentioned Wyoming and its unique circumstances several times (e.g., *Remand Order* ¶ 144). Another factor greatly impacting the rate comparison is the continued presence of substantial amounts of implicit subsidies in the rates that constitute the average urban rate and the nationwide urban rate benchmark.

In conclusion, the WPSC very much intends to pursue remedies to this residential rate disparity through requests for further federal action provided to state commissions in Part IV.D.2.e. of the *Remand Order*. The WPSC believes we can clearly demonstrate that the rates in rural, high-cost areas of Wyoming served by the non-rural incumbent local exchange carrier are not reasonably

comparable to urban rates nationwide and that Wyoming has taken all reasonable steps to achieve reasonable comparability through our actions and the application of existing federal support. Our request for further federal action may include variations of the additional targeted federal support as detailed and described in Part V.C.3. and Appendix G of the *Remand Order*. The WPSC looks forward to working with the FCC, the USAC and all other interested parties in achieving the Universal Service goals and principles contained in Section 254 of the federal Telecommunications Act of 1996.

Sincerely,

Steve Furtney
Deputy Chair
Wyoming Public Service Commission

Exhibit 1

**Wyoming Public Service Commission
Rate Comparability Analysis
Residential Rate Data**

Residential Customers in the Most Rural Areas of Wyoming Served
by the Non-Rural Incumbent Local Exchange Carrier

Rate, Surcharges, Credits and Taxes as of July 1, 2004:

Basic Residential Access Line Rate	\$69.35
Federal Universal Service Fund Credit	(\$28.00)
Wyoming Universal Service Fund Credit	<u>(\$9.68)</u>
Net Residential Rate Subject to Mandatory Surcharges and Taxes	\$31.67
Federal Subscriber Line Charge	\$6.50
Federal Universal Service Fund Surcharge	\$0.58
Telecommunications Relay System Surcharge	\$0.06
Wyoming Lifeline Program Surcharge	\$0.01
E911 Emergency Calling System Tax	\$0.75
Federal Excise Tax	\$1.16
Wyoming State Sales Tax	<u>\$1.55</u>
Total Basic Residential Service Rate to Customer	<u><u>\$42.28</u></u>